

Classification of Real Property

This paper addresses the classification of property as provided by section 34c of the General Property Tax Act (MCL 211.34c). It does not address the exemption for agricultural personal property provided by MCL 211.9(j) nor does it address the qualified agricultural property exemption from the 18 mills of local school operating tax.

211.34c Classification of assessable property required; tabulation of assessed valuations; transmission of tabulation and other statistical information; classifications of assessable real property; classifications of assessable personal property; buildings on leased land as improvements; total usage of parcel which includes more than 1 classification; notice to assessor and protest of assigned classification; decision; petition; arbitration; determination final and binding; appeal by department; construction of section.

Sec. 34c. (1) Not later than the first Monday in March in each year, the assessor shall classify every item of assessable property according to the definitions contained in this section. Following the March board of review, the assessor shall tabulate the total number of items and the valuations as approved by the board of review for each classification and for the totals of real and personal property in the local tax-collecting unit. The assessor shall transmit to the county equalization department and to the state tax commission the tabulation of assessed valuations and other statistical information the state tax commission considers necessary to meet the requirements of this act and Act No. 44 of the Public Acts of 1911, being sections 209.1 to 209.8 of the Michigan Compiled Laws.

(2) The classifications of assessable real property are described as follows:

❖ Agricultural Classification

- (a) Agricultural real property includes parcels used partially or wholly for agricultural operations, with or without buildings, and parcels assessed to the department of natural resources and valued by the state tax commission. As used in this subdivision, "agricultural operations" means the following:
- (i) Farming in all its branches, including cultivating soil.
 - (ii) Growing and harvesting any agricultural, horticultural, or floricultural commodity.
 - (iii) Dairying.
 - (iv) Raising livestock, bees, fish, fur-bearing animals, or poultry.
 - (v) Turf and tree farming. Performing any practices on a farm incident to, or in conjunction with, farming operations.

A commercial storage, processing, distribution, marketing, or shipping operation is not part of agricultural operations.

Act 451 of 1994, Natural Resources and Environmental Protection Act (excerpt) includes a definition for "agricultural use" that is not to be confused with the definition of the Agricultural Classification listed above [211.34c (2)(a)]. The following definition is only to be used in the determination of the qualified agricultural property exemption from the 18 mills of local school operating tax when a property **is not classified agricultural**.

MCL 324.36101(b) "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

There are no minimum size or income requirements for the agricultural classification. For instance, viable agricultural operations growing herbs or mushroom crops are possible on just a few acres of land.

Tree farming does not include a forest or woodlot that will eventually be harvested for the value of the wood as lumber or pulp. Further clarification of the difference between tree farming as indicated in MCL 211.34c(a)(v) and forest or woodlands is discussed in Attorney General Opinion Number 5702 dated May 6, 1980. These types of lands may be included in the agricultural classification if their value represents a small part of the total use of the land and the rest of the land is used for an agricultural operation.

Tree farming does include growing Christmas trees for the holiday wholesale or retail market and nursery stock. The land is usually cultivated and the stock is usually protected from weed species, insects, and other harmful pests. Nursery stock includes trees being grown for replanting for a landscaping, erosion control practice, or for stocking or restocking a timber land property. A commercial orchard is an agricultural operation.

The sap collection system of a maple syrup operation has been determined to be an agricultural use. However the land devoted to the processing and bottling of maple syrup is not part of the agricultural classification.

Beekeepers/Honey Producers include Hobbyists (less than 25 colonies), Sideliners (25 – 300 colonies), and Commercial (300 or more colonies). Hobbyists generally produce for themselves, relatives and friends. Sideliners produce honey for sale to consumers and processors. Commercial produces generally produce honey for sale to consumers, to processors and distributors of honey and honey products.

Commercial honey production is a year-round operation with the most intense activity being from March to October. Hives (colonies) are moved from area to area on a frequent basis, as pollen and nectar crops are available. They may move from North to South and South to North throughout the United States and are not necessarily located within a single ownership.

Products include Honey; beeswax (used in pharmaceutical and dental industries, cosmetics, ointments, candles, and household waxes); pollen (diet supplements); propolis (ingredient in cosmetics, lip balms, tonics); royal jelly (skin creams and lotions); Queen bees; Bee Packages (for replacements to hives with winter loss).

Equipment includes: Hives (Boxes known as supers, frames); Feeders (for supplemental feeding during spring and fall); Tank and mixing system, and distribution system to mix and deliver food to hives; Smokers and hive tools; Extracting equipment (uncapper, an extractor, pumps and storage tank); miscellaneous equipment (carts, pallets, scales, pressure washer and wax handling equipment).

A Honey House is required to provide a loading area, hot room, extracting area and storage area.

While raising bees is an agricultural activity, raising them as a hobby would usually not result in being classified agricultural. Sideliners are generally a unit of other agricultural operations. Commercial producers may best be classified Agricultural assuming they do not include commercial storage, processing, distribution, marketing or shipping.

Bee keeping operations often rent hives to various crop farmers for pollination purposes. The bee farm may have a honey house used to extract honey and comb from the hives. The equipment used to extract the honey, comb, and wax may be exempt agricultural property. Equipment used to bottle and label products for retail sale and buildings used for the commercial storage of goods prepared for retail sale are not a part of the agricultural classification.

“Hobby farms” are generally not part of the agricultural class. They usually consist of a home, a few acres (in rare occasions many acres), and out buildings. They frequently include the raising of livestock being used by the property owner such as horses, a few cows, sheep or goats, chickens for household use (meat

and eggs), or a small fishpond. Occasionally excess produce from a garden may be sold to a list of clients or at a roadside stand.

The raising of captive cervidae for sale as breeding stock or for the sale of the meat to a store is an agricultural activity. However, the raising of captive cervidae or game birds for the purpose of onsite hunting is considered a commercial operation. If an on-site hunting operation is in conjunction with another agricultural operation on the same parcel that is classified agricultural, a partial qualified agricultural property exemption would be warranted.

Habitat manipulation and the feeding of wild cervidae to encourage cervidae to remain in or visit an area to assist in the viewing and/or hunting of the animals is not an agricultural activity.

The inclusion of some or all of the acreage of a property in a federal set aside program does not necessarily mean that the property should be classified as agricultural. If the property is in an area of heavy residential or recreational use and the market for agriculture is limited or nonexistent, residential may be the most appropriate classification. If the property is under active cultivation or other agricultural use and the property is in an area of heavy residential or recreational use and the market for agriculture is limited or nonexistent, developmental classification may be the appropriate classification.

Inclusion of land in PA 116 of 1974, the Farmland and Open Space Preservation Act does not necessarily mean the property should be classified as agricultural. There are several situations in which a property subject to farmland development rights agreement could be classified other than agricultural. The following are examples (there may be additional examples):

1. There could be a farm in the path of immediate development that has a market value in excess of its value in use. Someone might purchase for commercial or residential use and wait for the agreement to expire.
2. There could be a farm with a short period left on the agreement that is in the path of residential development. It could qualify as residential because it "probably will be used for residential" in the future.
3. Under certain circumstances the agreement can be relinquished. One of these circumstances is when a local governing body determines that relinquishment is in the public interest and it has been zoned commercial or industrial for the preceding 3 years.

Property that is zoned agricultural may not necessarily be classified as agricultural. This type of property is often used for a variety of other uses. While the zoning of a particular property may be an influencing factor, the zoning does not dictate the classification.

Riding stables should not be classified agricultural. Facilities used for the boarding, training, and showing of other people's horses should not be classified agricultural. However, the raising of horses for sale to others is an agricultural operation.

Lands devoted to the care and housing of horses used in a farming operation (example: plow horses) should be classified agricultural.

Care should be taken in classifying properties that include more than one activity such as a riding stable, pasture land, or a game farm. **MCL 211.34c (5)) states, "If the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel."** It may be that another use on the land would cause the parcel to be classified agricultural.

❖ Commercial Classification

(b) Commercial real property includes the following:

- (i) Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings.
- (ii) Parcels used by fraternal societies.
- (iii) Parcels used as golf courses, boat clubs, ski areas, or apartment buildings with more than 4 units.

Many areas have structures that were built for residential use but are now used as commercial office or retail space. These parcels should generally be included in the commercial classification.

Occasionally, a commercial district will expand into a residential area. When this occurs, a homestead or single-family rental home that would otherwise be classified in the residential class may be classified as commercial. This is true if the property's "highest and best use" is for commercial property. The commercial use of property originally constructed for use as residential will frequently require the assessor to conduct an economic condition factor (ECF) study specific to this type of property. The ECF is likely to be different than the ECF determined for residential use properties or properties calculated using the commercial/industrial cost schedules.

Bed and Breakfast operations may be classified as commercial real property when the primary use is to generate income similar to a motel - MCL 211.34c (5).

Individual complexes consisting of four or fewer apartment units will normally be included in the residential classification.

Properties used as pay to hunt facilities should generally be included in the commercial classification. Examples of this type of property include big game, small game, and game bird hunting areas where a fee is paid to hunt and this is the predominant use of the property. If the property is part of an agricultural operation and the owner derives only minimal secondary income by occasionally leasing hunting rights and the hunting activities are limited to the regular state hunting regulations and licensing, the property may properly be included in the agricultural classification.

Fish camps that include lodging and may include or rent fishing gear and boats should be classified in the commercial class. If the property includes the owner's residence, the total value of each use must be calculated to determine the proper classification - MCL 211.34c (5).

Youth activity day camps and residential camps that are not part of an exempt organization should be included in the commercial classification. Examples of this type of property include Eco-adventure camps, nature retreats, sport camps, music camps, and childcare camps. Examples of similar camps that are frequently exempt would be Boy Scout and Girl Scout camps, YMCA day camps, and Church camps.

The heavy equipment repair shop of a contractor, logger, or trucker located on the same property as the homestead will require the assessor to determine the value of each use - MCL 211.34c (5). This also applies to offices, storage or warehouse facilities, fabrication areas, and retail areas in conjunction with homestead properties.

❖ Developmental Classification

- (c) Developmental real property includes parcels containing more than 5 acres without buildings, or more than 15 acres with a market value in excess of its value in use. Developmental real property may include farmland or open space land adjacent to a population center, or farmland subject to several competing valuation influences.

The developmental classification is normally used in areas of changing use near significant population centers.

❖ Industrial Classification

- (d) Industrial real property includes the following:
 - (i) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings.

- (ii) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas.
- (iii) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.

Gravel and sand pits as well as stone quarries should be included in the industrial classification.

Gas and oil transmission lines often have pumping stations located along their routes. When these facilities are located on lands owned by the transmission companies they should be included in the industrial classification.

Electrical transmission and distribution lines often have substations and switching equipment located on lands owned by the companies. These properties should be included in the industrial classification.

Electric generating plants that are not owned by a "utility company" but are intended to provide electricity for sale to the transmission system should be included in the industrial classification. Public Act 141 of 2000 set up a procedure "To encourage the development and construction of merchant plants which will diversify the ownership of electric generation in this state." These "Merchant" power plants are not regulated in the manner of utility "companies". They may contract with power grids, individual industrial or commercial sites, aggregations of residential customers, and other entities to sell electrical power. While a "utility" must supply power regardless of market price, merchant plants may reduce or suspend the generation of electricity when market prices on "the grid" are reduced below the cost of production.

Flowage land is the area that is maintained in an undeveloped condition in the vicinity of hydroelectric dams. They are mandated for the federal licensing of the facility. These lands should generally be classified in the industrial classification.

❖ Residential Classification

(e) Residential real property includes the following:

- (i) Platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for, or probably will be used for, residential purposes.
- (ii) Parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes.

The type of property frequently contested in this classification is vacant acreage. When the local market for acreage is for recreational use, this statute indicates it shall be classified in the residential classification.

There is no separate classification for recreational property. Lands whose primary use is for recreational activities such as hunting, fishing, camping, snowmobile use, mushroom hunting, photography, bird watching, and other recreational pursuits are properly classified in the residential classification. Similar unused lands in the vicinity of this type of market are also typically recreational properties, if so, they should be included in the residential classification.

A vacation cottage or camp is a recreational property and should be included in the residential classification.

A hunting or fishing camp owned by an individual or a group of individuals is a recreational property and should be included in the residential classification provide a fee is not charged.

A single housing complex consisting of four units or less is generally included in the residential classification.

Houses used as Bed and Breakfast establishments are sometimes classified residential and sometimes commercial. If the main use of the house is as a private residence and the bed and breakfast is only a minor use, the property should be classified residential. If the primary use is to generate income similar to a motel, the property should be classified commercial.

“Hobby farms” usually consist of a home, a few acres (in rare occasions many acres), and out buildings. They frequently include the raising of livestock being used by the property owner such as a few horses, a few cows, a few sheep or goats, chickens for household use (meat and eggs), and/or a small fishpond. Small orchards and gardens used for family consumption are common on the hobby farm. In many cases the hobby farm may have been a part of a past agricultural operation. The farmstead may have been sold or the land may have been sold, but in any case the property value is mainly in the homestead or residential property - MCL 211.34c (5).

When a small part of a house is used for a commercial or retail operation, and the residence is in a residential area, the property will usually be classified in the residential classification.

❖ Timber - Cut Over Classification

- (f) Timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size, cutover forestland with little or no merchantable products, and marsh lands or other barren land. However, when a typical purchase of this type of land is for residential or recreational uses, the classification shall be changed to residential.

Many vacant wooded lands have been classified as timber - cut over. However, many of these lands are located in market areas dominated by purchasers of recreational hunting properties or rural residential properties. This type of vacant land will generally be included in the residential classification.

Many agricultural operations contain wood lots. In some areas of Michigan the wood lot may be very large, consisting of 40 to 160 acres or more. If these lands are contiguous and in the same section with farmland, they may properly be combined into one parcel and included in the agricultural classification - MCL 211.34c (5).

In determining whether a wooded parcel should be classified as timber - cut over or another classification the assessor may wish to ascertain the use of the property. Some questions the assessor should ask before determining that a parcel should be classified as timber - cut over are: Does the property have a history of timber sales? Does the owner have a written forest management plan? Does the property owner keep a business journal with records of expenses, receipts, timber additions, and removal? Does the owner complete IRS Form T (Timber)? Has the property owner had a determination of the Timber Basis made for the depletion allowance of federal income taxes?

Many properties that would normally be classified as timber - cut over have been enrolled in an alternate tax program under the Commercial Forest Act.

Frequently, an indication that wooded lands should be classified as other than timber - cut over is the presence of buildings such as a home, cottage, or a hunting and fishing camp. However, this is not always the case. For instance, there may be a building on the property that is used to store timber-harvesting equipment. Or the total usage of a parcel may include more than one classification, but the timber - cut over use most significantly influences the total valuation of the parcel

Marshlands, sand dunes, and other "barren land" that are in areas that can not be used for recreational or residential purposes are generally included in the timber - cut over classification.